**DECLARATION - USA PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled SURFACTANT PROTEIN D FOR THE PREVENTION AND DIAGNOSIS OF PULMONARY EMPHYSEMA; the specification of which was filed on **April 26, 2000**, as Application Serial No. **09/558,576**.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby claim the benefit under Title 35, United States Code § 119 (e) of any United States provisional application(s) listed below.

Application No. 60/104,941

Filing Date: October 20, 1998

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor: **Jeffrey A. Whitsett, M.D.**

Inventor's signature

Date

7/28/00

Residence: **5565 Salem Road, Cincinnati, OH 45230**

Citizenship: **American**

Post Office Address: **Same as Above**

Send Correspondence To:

**KNOBBE, MARTENS, OLSON & BEAR, LLP**

**Customer No. 20,995**

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Application No.: 09/558,576  
Filing Date: April 26, 2000

PATENT  
Client Code: CHMC7.001CP1  
Page 1

ASSIGNMENT

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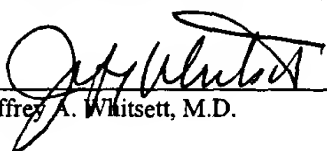
WHEREAS, I, Jeffrey A. Whitsett, M.D., an American citizen, residing at 5565 Salem Road, Cincinnati, OH 45230, have invented certain new and useful improvements in a SURFACTANT PROTEIN D FOR THE PREVENTION AND DIAGNOSIS OF PULMONARY EMPHYSEMA for which I have filed an application for Letters Patent in the United States, Application No. 09/558,576, Filed April 26, 2000;

AND WHEREAS, CHILDREN'S HOSPITAL MEDICAL CENTER (hereinafter "ASSIGNEE"), a Ohio Corporation, with its principal place of business at 3333 Burnet Avenue, Cincinnati, OH 45229, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, I, the said inventor, do hereby acknowledge that I have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and I hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND I HEREBY covenant and agree that I will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to me respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 28 day of July, 2000

  
Jeffrey A. Whitsett, M.D.

STATE OF Ohio

COUNTY OF Hamilton

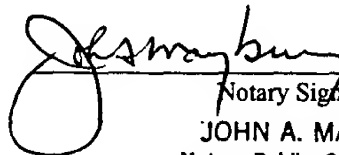
ss.

On July 28, 2000, before me, John A. Maybury, personally appeared Jeffrey A. Whitsett, M.D. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

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Notary Signature

JOHN A. MAYBURY

Notary Public, State of Ohio

My Commission Expires Oct. 2, 2002

Applicant: James Whitsett, M.D.  
Application No.: 09/558,576  
Filed: April 26, 2000  
For: SURFACTANT PROTEIN D FOR THE PREVENTION AND DIAGNOSIS OF PULMONARY EMPHYSEMA



Attorney's Docket No.: CHMC7.001CP1  
Page 1

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL-ENTITY STATUS**

I, the undersigned, do hereby declare that:

☒ I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION: CHILDREN'S HOSPITAL MEDICAL CENTER  
ADDRESS OF ORGANIZATION: 3333 Burnett Avenue, Cincinnati, OH 45229-3039  
TYPE OF ORGANIZATION: Nonprofit

☒ Nonprofit scientific or educational under statute of state of the United States of America.  
(name of state: Ohio)  
(citation of statute: Tax Exempt 501-C3)

I further declare that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR 1.9(e) for purposes of paying reduced fees to the United States Patent and Trademark Office regarding the invention described in the patent or application identified above.

The individual, concern or organization identified above has not assigned, granted, conveyed or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

If the rights held by the above-identified individual, concern or organization are not exclusive, each individual, concern or organization having rights in the invention are identified below. Each such individual, concern or organization must file separate verified statements averring to their status as small entities.

**\*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).**

FULL NAME:

ADDRESS:

☐ INDIVIDUAL ☐ SMALL BUSINESS CONCERN ☐ NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small-entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: James M. Anderson

TITLE OF PERSON (if not an owner or individual): President and Chief Executive Officer

ADDRESS OF PERSON SIGNING: 3333 Burnet Avenue, Cincinnati, OH 45229-3039

SIGNATURE:

DATE: July 28, 2000

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